

1. Publication was in the national interest.

Concealment by Exe

Deception " "

Refusal to respond to Congress.

Class. system

2. Ad hoc class. system

(not basis for criminal sanctions)
("National Defense Aristocracy — or Club, Bill Proffers).
Memoirs; removal of docs for private use;

Gov is really saying, "Because doc is classified, it can't
be disclosed..."

3. Unprecedented use of Grand juries for investigation
after indictments.

(Gov just didn't have evidence when the
first indictment in LA.

Gov claims that under "retention" they can avoid
discussion of "national defense"

Response on hsr?

Message to hsr?

Hegsten: legal research

-ACLU

Can issues be raised?

Fan of new indictments?

conspiracy to publish?

copying?

[Call CFR

Lynd: AHA



V V

for 4 - notes 1 day

Beniger - Jan 10 or Feb 10
most likely

3-5 months

Our case: May; or Aug-Sept.

"If does like this 'relate to national defense',
~~the~~ may other criminal prosecutions should
have taken place."

→ "national defense" requires
contemporaneity"

[But non recent books
aren't prosecuted either.]

On intent: gov can claim that, grammatically,
'intent' isn't involved.

Argument: lack of intent w/out "retention"
had to do with depriving gov of use of docs;
delet is involved here is copying, which does
require intent.

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Why not require that "oaths" incorporate provision (a) "provided info to be concealed does not involve ~~the~~ evidence of criminal behavior, deception of Congress + public, violators of international law..."

(b) in case one suspects info has above character, there is a process for referring info to a ~~to~~ body capable of acting on such evidence, not excluding Executive."

Otherwise, these "promises" that constitute part of class. system are

- (1) Unenforceable (like restrictions covenants)
- (2) Unconstitutional
- (3) Should be illegal
- (4) are against interests of Congress
- (5) Have bad educational effect;
- ~~Charges~~ (6) Violate Nuremberg Principles

Congress should specify language to be ~~be~~ signed by officials, to "educate" them to obligations.

[X]

(If my promise was binding on PP —
the promise was improper for Gov't act,
and for me to sign.)

"Unauthorized persons" should not
even cover (2) a member of Congress
(b)

Boudin: "More likely than not" (though
more likely than any other case) that
judge will allow the direct argument:
"The VN war was illegal."

But a case testifies that, for X reasons,
I believed (+ intended) my act would help
the country: this would bring in some
evidence (under my intent).

[We can put issue of intent to the jury.]
[Will this help other cases? Justifiably?]

Can other witnesses testify to, say,
criminality?

- c.g. (1) Fullbright — told me some
docs confirmed his suspicions, other
info was new to him (extract of 34A)
said he had been deceived by CB. (Ball?)
(2) Falk — Taylor: told me certain
acts were illegal (though non-juristic.)

(3) Alex Johnson, McG B, Vane: said
signed docs brought by me.

(4) Unfriendly witnesses? McN?

Robert?

How big is Gov's case? How long?

Seiay; Robert; newsmen, agents,
to testify to admissions

Best, Butler; Rouen?

[Do we call Robert?